

BYLAWS OF THE BOARD

BB 9270

Conflict of Interest

Incompatible Activities

Governing Board members shall not engage in any employment or activity, which is inconsistent with, incompatible with, in conflict with, or inimical to the Board member's duties as an officer of the district.

Conflict of Interest Code

Designated employees of the district, including Board members, shall adhere to the financial disclosure requirements of the district's conflict of interest code adopted pursuant to the provisions of Government Code 87300.

The district's conflict of interest code shall comprise the terms of the California Code of Regulations, Title 2, Section 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with a district attachment specifying designated positions and the specific types of disclosure statements required for each position.

When a change in the district's conflict of interest code is necessitated by changed circumstances such as the creation of new positions, amendments or revisions shall be submitted to the code reviewing body within 90 days.

Upon receiving the statements of employees designated in Category 1, the district shall make and retain copies and shall forward the originals to the code reviewing body. The district shall retain statements for all other designated employees.

The Board shall review the district's conflict of interest code in even-numbered years and send the code reviewing body either an amended code or, by October 1 of that year, a *written* statement to the effect that no change is necessary.

When reviewing and preparing conflict of interest codes, the district shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views.

Statements of economic interests submitted to the district by designated employees in accordance with the conflict of interest code shall be available for public inspection and reproduction.

Financial Interest

Board members and designated employees shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as Board members or designated employees.

A Board member shall not be considered to be financially interested in a contract if his/her interest is including, but not limited to, any of the following:

Approved and/or authorized by the Board
of Supervisors of the County of San Diego
Date 12.4.94 Minute Order No. 24
THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors
By [Signature]
Deputy Clerk

1. That of an officer in being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty
2. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board
3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091
4. That of a spouse of an officer or employee of a public agency if his/her spouse's employment or officeholding has existed for at least one year prior to his/her election or appointment
5. That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records
6. That of a noncompensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the board or to which the board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records
7. That of compensation for employment with a governmental agency, other than the governmental agency that employs the officer or employee, provided that the interest is disclosed to the board at the time of consideration of the contract, and provided further that the interest is noted in its official records
8. That of an attorney of the contracting party of that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm, or real estate firm

In addition, a Board member or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his/her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor, or creditor.

A Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract and if the remote interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member to enter into the contract. Remote interests are specified in Government Code 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child.

If a Board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed and made part of the Board's official minutes. In the case of a designated employee, this announcement shall be made in writing and submitted to the Board.

A Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs.

Even if there is no prohibited or remote interest, a Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the person by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree.

A relationship within the third degree includes the individual's parents, grandparents, and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse unless the individual is widowed or divorced.

Gifts

Board members and any employees who manage public investments shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law.

Designated employees shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law if the employee would be required to report the receipt of income or gifts from that source on his/her statement of economic interests.

The above limitations on gifts do not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.

Gifts of travel and related lodging and subsistence shall be subject to the above limitations except as described in Government Code 89506.

A gift of travel does not include travel provided by the district for Board members and designated employees.

Honoraria

Board members and any employees who manage public investments shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering.

Designated employees shall not accept any honorarium which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering, if the employee would be required to report the receipt of income or gifts from that source on his/her statement of economic interests.

The term "honorarium" does not include:

1. Earned income for personal services customarily provided in connection with a bona fide business, trade or profession unless the sole or predominant activity of the business, trade or profession is making speeches
2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes

Legal Reference:

EDUCATION CODE

~~1006 Qualifications for holding office~~

~~35107 School district employees~~

~~35230-35240 Corrupt practices~~

~~35233 Prohibitions applicable to members of governing boards~~

GOVERNMENT CODE

~~1090-1098 Prohibitions applicable to specified officers~~

~~1125-1129 Incompatible activities~~

~~81000-91015 Political Reform Act of 1974, especially:~~

~~82011 Code reviewing body~~

~~82019 Definition of "designated employee"~~

~~82028 Definition of "gifts"~~

~~82030 Definition of "income"~~

~~82033 Definition of "interest in real property"~~

~~82034 Definition of "investment"~~

~~87100-87103.6 General prohibitions~~

~~87200-87210 Disclosure~~

~~87300-87313 Conflict of interest code~~

~~87500 Statements of economic interests~~

~~89501-89503 Honoraria and gifts~~

~~89506 Travel payments, advances and reimbursements~~

~~91000-91015 Enforcement~~

CODE OF REGULATIONS, TITLE 2

~~18100-18730 Regulations of the Fair Political Practices Commission~~

COURT DECISIONS

~~Kunec v. Brea Redevelopment Agency (1997) 55 Cal.App 4th 511~~

ATTORNEY GENERAL OPINIONS

~~80 Ops.Cal.Atty.Gen. 320 (1997)~~

~~69 Ops.Cal.Atty.Gen. 255 (1986)~~

~~68 Ops.Cal.Atty.Gen. 171 (1985)~~

~~65 Ops.Cal.Atty.Gen. 606 (1982)~~

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87300-87313 Conflict of interest code

87500 Statements of economic interests

89501-89503 Honoraria and gifts

91000-91014 Enforcement

CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission

COURT DECISIONS

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th. 655

Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511

ATTORNEY GENERAL OPINIONS

82 Ops.Cal.Atty.Gen. 83 (1999)

81 Ops.Cal.Atty.Gen. 327 (1998)

80 Ops.Cal.Atty.Gen. 320 (1997)

69 Ops.Cal.Atty.Gen. 255 (1986)

68 Ops.Cal.Atty.Gen. 171 (1985)

65 Ops.Cal.Atty.Gen. 606 (1982)

Adopted: 10/11/83

Revised: 12/13/94, 1/10/95, 12/8/98, 6/22/99,

Designated Positions/Disclosure Categories

Persons occupying the following positions are designated employees in Category 1:

Governing Board Members
 District Superintendent
 Assistant Superintendent, Business Services
 Directors
 Purchasing Specialist

Designated persons in this category must report:

1. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries or of any land owned or used by the district. Such interests include any leasehold, beneficial, or ownership interest or option to acquire such interest in real property.
2. Investments or business positions in or income from sources which:
 - (a) Are engaged in the acquisition or disposal of real property within the district
 - (b) Are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district or
 - (c) Manufacture or sell supplies, books, machinery, or equipment of the type used by the district

Persons occupying the following positions are designated employees in Category 2:

Administrator, Facilities and Operations

Designated persons in this category must report investments or business positions in or income from sources that:

1. Are contractors or subcontractors engaged in work or services of the type used by the department that the designated person manages or directs, or
2. Manufacture or sell supplies, books, machinery, or equipment of the type used by the department that the designated person manages or directs.

Persons occupying the following positions are designated as consultants:

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to:

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend, or revoke a permit, license, application, certificate, approval, order, or similar authorization or entitlement
4. Authorize the district to enter into, modify, or renew a contract that requires district approval
5. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party
6. Grant district approval to a plan, design, report, study, or similar item
7. Adopt or grant district approval of district policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18702.2 or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's Conflict of Interest Code.

Issued: